

# EXHIBIT

## 3

**Brian Glatfelter**

**11/29/2021**

IN THE DISTRICT COURT OF THE UNITED STATES

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

EUGENE HABICH,

Plaintiff,

vs.

Civil Action

No. 2:20-cv-12528

Hon. David M. Lawson

WAYNE COUNTY, CORPORAL JOHN

WOJCIECHOWSKI, and DEPUTY

CHRISTOPHER MITTLESTAT,

Defendants,

\_\_\_\_\_/

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The Deposition of BRIAN GLATFELTER,

Taken at 500 Griswold,

Detroit, Michigan,

Commencing at 10:07 a.m.,

Monday, November 29, 2021,

Before Jill Sickels, CSR 0162.

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1 Q. And I take it that after the academy, you became a  
2 deputy.  
3 A. I was a deputy in the jail first and then I worked  
4 midnights and part of my degree was to get to the  
5 police academy, so then in order to finish my degree, I  
6 went to the police academy during the day and then I  
7 worked midnights at the jail.  
8 Q. No sleep?  
9 A. 4 hours. 4 hours.  
10 Q. We were younger then, weren't we?  
11 A. We were -- I was just going to say that. We were  
12 younger then.  
13 Q. Exactly.  
14 A. I could do it but it would be tough now.  
15 Q. Okay. You know, what, if anything, did you do to  
16 prepare to talk about this case today to refresh your  
17 recollection?  
18 A. Kind of -- it was minimal but I did have a chance to go  
19 over the defendant's testimony, I guess I'll call it.  
20 I was curious on what he had to say since I've never  
21 spoken to him or anything like that, so I did go over  
22 that. I briefly went over the case but I'm familiar  
23 with it so I really didn't need to do much of that, so.  
24 Q. When you say the defendant's testimony, did you mean  
25 Corporal Wojciechowski or Deputy Mittlestat or did you

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1 mean --  
2 A. No, I mean.  
3 Q. -- the plaintiff Eugene Habich?  
4 A. The plaintiff's. The plaintiff's testimony.  
5 Q. Got it.  
6 A. I didn't know exactly how you wanted it addressed in  
7 this hearing so I just call them defendants whether  
8 they're charged or not charged or guilty or not guilty.  
9 You know, they're defendants, so. Defendants,  
10 suspects, you know.  
11 Q. Okay. That's what I wanted to find out --  
12 A. Right.  
13 Q. -- from you because I need to know what you think.  
14 A. Right. It's just a term that I use for anybody that's  
15 either being investigated, charged in court, you know,  
16 somebody that's under investigation at the very least,  
17 you know, versus victim versus complainant versus  
18 witness. It's just a term.  
19 Q. So in your mind, you read the statement of the suspect?  
20 A. Yes.  
21 Q. Since your memory, I hope, was refreshed, when did you  
22 first hear about the incident on I-275?  
23 MR. STELLA: I would object for just  
24 foundation just jumping right into it, but go ahead and  
25 answer it, sergeant.

1 A. Okay. I was waiting on him.  
2 BY MS. DOWNEY:  
3 Q. That's right. That's the right thing to do.  
4 A. All right. I heard about it, I want to say, either the  
5 day of or the day after. I'm not exactly sure, but I  
6 would say it was right around -- if I didn't hear about  
7 it the day of, we could have been off for a -- on our  
8 off days and maybe heard about it when they come back,  
9 but it was something that I would hear about if I was  
10 working that day.  
11 Q. Does Corporal Spaulding report to you?  
12 A. No, he was on day shift, but since they -- the way I  
13 would get it would be because it would be a complaint  
14 on a criminal matter, something that happened -- even  
15 though he was on his way to work, he still took -- in  
16 my mind, took police action, you know, on his way to  
17 work, made a complaint, observed an illegal activity  
18 and it needs to be investigated, so that's how it would  
19 end up on my desk.  
20 Q. When it ended up on your desk, what did you know about  
21 it?  
22 A. Basically, I read Corporal Spaulding's report and I  
23 knew that, according to his report, he was on his way  
24 to work and an incident occurred and he had tried to  
25 locate a specific vehicle and he was unable to.

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1 Q. When it ended up on your desk, what action, if any, did  
2 you take?  
3 A. I tasked Corporal Wojciechowski, because that's one of  
4 his specialties is to track stuff down, so I asked him  
5 if he could see if he could locate the vehicle.  
6 Q. Now, is that his specialty or your group's specialty?  
7 I wasn't clear on that.  
8 A. Well, I consider it his specialty because the other  
9 members of my staff at the time were not as seasoned  
10 and, if anything, they were along to assist him and to  
11 learn off of him and stuff like that, which is what I  
12 usually do is, All right, this guy's doing this, you  
13 shadow him, help him out. You know, like, on-the-job  
14 training pretty much, you know. You can study in the  
15 book all you want but until you actually get out there  
16 and start doing it for real for yourself and to be  
17 actually involved in the, you know, police work and  
18 stuff like that, then -- I mean, it's a hands-on job.  
19 There's only so much you can learn at the academy and  
20 there's only so much you can learn from an instructor  
21 and so you have to get out there and do it, so.  
22 Q. Sounds right. Who was shadowing Corporal  
23 Wojciechowski?  
24 A. For the sake of this deposition, we know that we're  
25 talking about Corporal Wojciechowski, which is an

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1 entire -- it's hard to say, even harder to spell. I  
 2 had to memorize it in order to do that. So we just  
 3 call him Wojo, W-O-J-O. Wojo. Corporal Wojo, badge  
 4 number 1287. So if it helps just in this -- I know  
 5 it's legal and everything like that. We just call him  
 6 Wojo, Corporal Wojo. So if it helps, I'll know what  
 7 you're talking about if you say Corporal Wojo.  
 8 Q. Thank you. I think I'll do that and --  
 9 A. Okay.  
 10 Q. -- I will not be meaning any disrespect to the corporal  
 11 by doing that.  
 12 A. Believe me, if he was here, he would not feel any  
 13 disrespect. Trust me.  
 14 Q. Okay. Very good. So who was shadowing Corporal Wojo?  
 15 A. It was Deputy Mittlestat.  
 16 Q. What did you ask or rather what did you tell Corporal  
 17 Wojo?  
 18 A. Well, I let him read Corporal Spaulding's report and I  
 19 asked him if he could locate the vehicle in question.  
 20 Q. What was the next thing that you heard about the case?  
 21 A. The next thing I heard about the case was that he had  
 22 went to a house in Dearborn and that the vehicle wasn't  
 23 there but he had a lead on where it might be or where  
 24 the subject, defendant, I mean, how do you want me to  
 25 address --

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1 Q. Any way --  
 2 MR. STELLA: Mr. Habich might be --  
 3 A. Mr. Habich.  
 4 MR. STELLA: For clarity.  
 5 A. Mr. Habich. Is that how you say his name?  
 6 MR. STELLA: Yeah.  
 7 A. Mr. Habich on where he would be or his whereabouts or,  
 8 you know, and so I said okay.  
 9 BY MS. DOWNEY:  
 10 Q. Did you say anything other than okay?  
 11 A. Yeah, that's it. I mean, I released him to do his  
 12 thing so he was letting me know that he made this  
 13 location, the car wasn't there, the person wasn't  
 14 there, talked to a few neighbors, might have a lead of  
 15 where he's at. I said, Okay, let me know.  
 16 Q. Okay. What's the next thing you heard?  
 17 A. I believe the next thing I heard was that I've located  
 18 the vehicle. I said, Okay. Well, see if you can talk  
 19 to somebody, if he's there or -- you know, do your  
 20 thing, basically.  
 21 Q. Did the corporal describe where the car was?  
 22 A. No.  
 23 Q. Did he tell you whether it was a residence or not?  
 24 A. He did say it was at an address in Romulus.  
 25 Q. Did he tell you anything about the address in Romulus?

1 A. No.  
 2 Q. What's the next thing that you heard?  
 3 A. A little time had passed and then he told me that he  
 4 had the vehicle on the tow truck and that he was taking  
 5 it in for evidence and that he had spoken briefly with  
 6 Mr. Habich and that he'd -- I told him to make sure  
 7 that he puts the -- had the tow truck driver put it in  
 8 what we call the secured storage so that we could --  
 9 because I knew I was going to get a search warrant for  
 10 it. And that's so nobody touches it, goes in it, tries  
 11 to start it or basically messes with it. We do that  
 12 for, like, if somebody ditched a stolen car that fled  
 13 from us or a crash or something, like, whenever a car  
 14 needs to be investigated, fingerprinted, photographed,  
 15 stuff like that, then we ask the tow company to put it  
 16 in a secured storage, which is basically just their  
 17 barn that's secured.  
 18 Q. I think you said you told him to tell the tow truck  
 19 driver to put it in the secured lot because you knew  
 20 you would be getting a warrant. Did I --  
 21 A. Yes.  
 22 Q. -- understand you right?  
 23 A. Yes.  
 24 Q. Why would you be getting a warrant?  
 25 A. Because according to the complaint, there were -- was

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1 police equipment utilized, and I know that if -- just  
 2 by my training and experience, what you would have to  
 3 do to a vehicle in order to make it -- those lights  
 4 work mechanic-wise, it's not anything that -- I mean,  
 5 you could maybe see the lights but you'd have to be  
 6 able to make sure that they worked, that it lit up and  
 7 stuff like that maybe, and maybe there was other things  
 8 involved inside the car, so just for procedural  
 9 purposes, I didn't want to dive into a car. I wanted  
 10 to be able to go into the trunk, the glove box, look  
 11 underneath it, pop the hood, so it's better to get a  
 12 warrant to do anything like that.  
 13 Q. What is your training about when you do or don't need a  
 14 warrant to seize a car?  
 15 A. It's all specific to -- it's really incident specific  
 16 because it changes. The law might change but really  
 17 what changes more than anything else is the case law.  
 18 You know, we get -- I get regular bulletins from the  
 19 state police and, you know, this law says this but this  
 20 has been adjudicated, the appellate court, the Supreme  
 21 Court ruled this so now you can't do this anymore and  
 22 you have to do this. So everything is -- it depends on  
 23 the situation. It really does.  
 24 Q. How often do you get these updates from the state  
 25 police?

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1 where there's, like, a -- LEIN, you have to recertify  
 2 in LEIN, so you have to take the test again and you  
 3 have to recertify on anything that's new in regards to  
 4 LEIN, and then there's other modules, like, you know,  
 5 the jails have to do suicide prevention and recognizing  
 6 contraband. There's a whole online training course  
 7 slash university, I'll just call it. I don't know if  
 8 they declared themselves a university but it's training  
 9 programs. They have to sit down in front of a computer  
 10 and watch a video and take a test. And then you have  
 11 your firearms. You can't do that on video but, you  
 12 know, stuff like that.

13 Q. The kids think you can but you can't.

14 A. Yeah. It's not the same, trust me. It's not the same.

15 Q. No. Are any of the modules concerned with warrant  
 16 procedure or seizure of autos?

17 A. No.

18 Q. Let's go back. We kind of diverted there.

19 A. Okay.

20 Q. You'd gone back to you had heard the car was on the tow  
 21 truck and you gave instructions about where the car was  
 22 to be secured. What's the next involvement that you  
 23 had with the car?

24 A. Well, once it was in the secured storage, I wanted to  
 25 take a look at it so I went to the tow company,

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1 Martin's Towing, it's in Brownstown, went there and  
 2 took a look at it and it was plain to see that there  
 3 was police lights or police style lights visible. I  
 4 saw them in the windshield, top of the windshield, the  
 5 front push bar, even though it had a spotlight and  
 6 that's not illegal but it looked like -- except for the  
 7 license plate, which the license plate had lights on  
 8 it, too, it looked like a plainclothes detective car or  
 9 something like that.

10 Q. Was this the same day that it was taken to the yard?

11 A. No, it's not the same day.

12 Q. How much longer?

13 A. I'm not exactly sure.

14 Q. Was it a matter of a few days or a few weeks or a few  
 15 months?

16 A. It wouldn't have been any more than a week. Yeah.

17 Q. Who did the inventory search of the car?

18 A. I did.

19 Q. When did you do that?

20 A. After I got the search warrant.

21 MS. DOWNEY: Let's mark this, please.

22 DEPOSITION EXHIBIT 1

23 WAS MARKED BY THE REPORTER

24 FOR IDENTIFICATION

25

1 BY MS. DOWNEY:

2 Q. We've marked as Exhibit 1 a copy of what was given to  
 3 us as being a search warrant pertaining to this matter.

4 Do you recognize this document, sir?

5 A. Yes, I do.

6 Q. Is that the search warrant that you got before you took  
 7 the inventory search of the car?

8 A. Well, actually, this is the search warrant I got to

9 inventory the car. It wasn't under an inventory

10 search. This was actually -- like I said before, I got

11 a search warrant so I could dive in and see what all

12 these lights were and everything else, because standing

13 around it, you could see that it was set up like a

14 police car, and I don't know how deep you want me to go

15 into this since it's an active case but the inventory

16 search would have been done by -- I know the officers

17 maybe took a look inside it or whatever, make sure

18 there was no weapons or whatever, but I don't know if  
 19 they did a -- I don't think they did a full on search.

20 This is a search warrant for a full on search, like,

21 under the hood, wires, I mean, trunk, under the seats,

22 glove box, stuff like that, so that's different than

23 a -- that's a different -- it's different than an

24 inventory search. This was I did a search and I

25 executed a search warrant on the car.

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1 Q. Okay. Well, then let me go back. Is there a different  
 2 search warrant that you got before you did an inventory  
 3 search of the car?

4 MR. STELLA: Okay. I object. He plainly  
 5 said he didn't do an inventory search. He got a search  
 6 warrant. So there's no 2 searches. He testified  
 7 there's just one. But you can answer the question.

8 BY MS. DOWNEY:

9 Q. Oh, let me get this straightened out.

10 A. Okay.

11 Q. Okay. Did you do one search or 2 searches of this car?

12 A. I did one search.

13 Q. Did you fill out an inventory search form?

14 A. I did what's called a PJ 400, which is a -- documents  
 15 any evidence taken into custody.

16 Q. Okay.

17 A. Okay.

18 Q. That's what I wanted --

19 A. Maybe that's why we were -- we were just saying --  
 20 we're probably thinking the same thing but saying  
 21 different things. I just didn't want to get confused.

22 The only time I went into the car was after I got the  
 23 search warrant and then I documented that on what's  
 24 called a PJ 400 I believe you have.

25 Q. Okay. That's --

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1 A. Okay.

2 Q. -- one of the reasons that we're here today, to make

3 sure --

4 A. Right.

5 Q. -- that all the facts are correct.

6 A. **Hundred percent. Hundred percent.**

7 Q. Okay. I'm showing you what was previously marked in a

8 different deposition as Exhibit 1 to Corporal Wojo's

9 deposition. Can you tell me what that piece of paper

10 is?

11 A. **This is the Wayne County Sheriff Impounded Vehicle**

12 **Report, otherwise known to us as a tow tag.**

13 MR. STELLA: Wait. One second. I don't mean

14 to cut you off but are we marking this in this

15 deposition?

16 MS. DOWNEY: No. We're just using it to --

17 it's already been marked and I've referred to it as the

18 Deposition Exhibit 1 from Corporal Wojo's deposition.

19 MR. STELLA: Okay. Well, I mean, I'm just

20 saying I want all deps (sic) to go -- that are used to

21 go with the transcript so I'd like them to be included.

22 MS. DOWNEY: Do you want it marked a second

23 time?

24 MR. STELLA: Yeah.

25 MS. DOWNEY: I have no objection to --

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1 MR. STELLA: I would just appreciate it.

2 MS. DOWNEY: -- marking it a second time.

3 That's fine. We can do that.

4 (Discussion off the record)

5 DEPOSITION EXHIBIT 2

6 WAS MARKED BY THE REPORTER

7 FOR IDENTIFICATION

8 BY MS. DOWNEY:

9 Q. We were talking about what's now been marked as Exhibit

10 2 to your deposition and you've told me that it's

11 commonly known as a tow tag, correct?

12 A. **Correct.**

13 Q. And that's the one that Corporal Wojo filled out?

14 A. **Yes. I can tell by his writing.**

15 Q. Work with a guy long enough, you know the writing,

16 right?

17 A. **He's a left-handed hook guy. I think ticket printers**

18 **were made for guys like him.**

19 Q. There's a case number in the upper right-hand corner --

20 A. **Yes.**

21 Q. -- that I'm seeing.

22 A. **It says 9032 dash 20.**

23 Q. Is that a previous case number or is it a new case

24 number?

25 A. **These 2 cases had to be linked because, unbeknownst to**

1 me, he took a separate case number for this impound and

2 his report when he should have wrote a supplemental to

3 the original. But once you draw a case number in the

4 system, you have to use it, so we just linked the cases

5 together. So it is one and the same to Corporal

6 Spaulding's case.

7 Q. Got it. They mean the same case.

8 A. **They mean the same case. Unfortunately -- I hate when**

9 **this happens because all it does is invite confusion**

10 **and scrutiny, but I didn't catch it in time so once I**

11 **got this paperwork, I'm, like, -- we couldn't change**

12 **it.**

13 Q. That's fine.

14 A. **Yeah.**

15 Q. We don't want anybody changing paperwork.

16 A. **No, we don't, so. And that's why you're looking at it**

17 **the way it is.**

18 Q. That's fine. On the third line down toward the right,

19 it says: Reason towed.

20 A. **Hold on. Okay.**

21 Q. How do you train your people to fill in that box? What

22 is that supposed to represent?

23 A. **That's supposed to represent somebody who was arrested.**

24 Q. Are you aware of Mr. Habich being arrested that day?

25 A. **I am not aware of him being arrested that day.**

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1 Q. Okay. Let's go back to the paper that was marked as

2 Exhibit 1 to your deposition.

3 A. **Okay.**

4 Q. Way at the top of the pages, you've got some dates that

5 say 10 dash -- or 10 forward slash 06 forward slash

6 2020.

7 A. **Uh-huh.**

8 Q. When did you apply for this search warrant?

9 A. **I believe it could have been that day or the day**

10 **before. I'm not exactly sure. It was right around**

11 **that day so it wouldn't be -- it would be within a day**

12 **or so. Yeah. So that would be a good time frame.**

13 Q. I noticed the last page it says: Subscribed and sworn

14 to before me and issued under my hand this 7 day of

15 October 2020. Did I read that right?

16 A. **You read it right.**

17 Q. Was that the day that you signed this or the day that

18 the judge signed this or both?

19 A. **I believe this is the day the judge signed it. I'm not**

20 **sure if I had to -- I can't remember if I had to fax it**

21 **in and wait since it wasn't -- you know, it's not**

22 **nothing that I needed right away and I had to fax it in**

23 **and wait, and then once it was ready to be heard, I had**

24 **to go on the record, the 35th District Court, and then**

25 **that's when it was signed and sent over. This could**



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1 just be -- I'm not exactly sure why the 10-6 of '20 is  
 2 up there because it says it was 8:30 at night, so.  
 3 Q. Well, let's talk about the procedure, then. Maybe that  
 4 will help me get that straight in my mind. How do you  
 5 go about getting a search warrant?  
 6 A. All right. Well, I have a blank form, other than maybe  
 7 the top of there. There are certain forms for, like,  
 8 search warrant for blood in an accident and/or a search  
 9 warrant for blood for OWI and then there's, like, blank  
 10 search warrant forms for property, is probably what I  
 11 pulled up here, and then basically just type out the --  
 12 what I have, what I want to search, why I want to  
 13 search it, and then supporting -- an affidavit  
 14 supporting the warrant on the circumstances of the case  
 15 and present it to the judge and either he's going to  
 16 have questions or he's not or he's going to sign it or  
 17 he's not.  
 18 Q. In this case, did you communicate with the judge in  
 19 person or --  
 20 A. I want to say --  
 21 Q. -- by phone or by fax?  
 22 A. -- in person.  
 23 MR. STELLA: Let's make sure we don't talk  
 24 other each other.  
 25 A. I'm sorry. I'm sorry.

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1 BY MS. DOWNEY:  
 2 Q. So you went out to 35th District?  
 3 A. Yes.  
 4 Q. You notice that the top of the fax form here said  
 5 20:32, seeming to indicate that something was faxed at  
 6 8:30 at night, correct?  
 7 A. Correct.  
 8 Q. Is there a magistrate or a judge on duty at 35th  
 9 District Court after normal business hours or  
 10 something?  
 11 A. There can be, but if I remember correctly, I'm not a  
 12 hundred percent sure, I had to fax it and then wait.  
 13 Like, their clerk would get it off the fax machine,  
 14 because the 721-2836, that's our fax number. That's  
 15 the Sheriff's office fax number. So I had to fax it  
 16 and then wait for it to be heard, called and heard, so.  
 17 And it's just lucky that it was the next day. It could  
 18 have been 2, 3 days. Depends on who's there, the  
 19 nature of the search warrant, you know, expediency and  
 20 stuff like that. I've waited a week to get a search  
 21 warrant before -- you know, it just depends on what  
 22 you're asking for, what you're asking to search, where  
 23 is it at. If they feel like you need it right this  
 24 second, then that's something that I would have called  
 25 in the morning, you know. Hey, I need the search

1 warrant, I need -- you know, here are the  
 2 circumstances. But that wasn't the case here. Nothing  
 3 was going anywhere, you know, any time soon so it  
 4 wasn't, it wasn't needed. It wasn't time sensitive so  
 5 they got me in when they could.  
 6 Q. Did the judge ask you any other questions?  
 7 A. I believe I read the search warrant or he had it read  
 8 into the record, and only thing I really remember from  
 9 the conversation is him flipping through and reading  
 10 afterwards and then he's, like, Okay, I'll sign it and  
 11 I hope you get this SOB.  
 12 Q. Okay.  
 13 A. Yes.  
 14 Q. Did you tell the judge anything that's not written down  
 15 here in these pages?  
 16 A. Absolutely not.  
 17 Q. Did you tell him that the car had been taken without a  
 18 warrant in the first place?  
 19 A. He didn't ask but I don't think I said that. I believe  
 20 I just let him know that it was in the impound yard and  
 21 in storage.  
 22 Q. In your opinion as a supervisor, did Corporal Wojo and  
 23 Deputy Mittlestat act correctly in seizing the car  
 24 without a warrant?  
 25 A. Well, I wasn't there so I can't testify on what they

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1 saw or anything like that. I didn't get the case until  
 2 after they were done doing their investigation from the  
 3 road, so I'm assuming that they had proper -- that they  
 4 had acted properly.  
 5 Q. Did they ask for your opinion on whether they needed a  
 6 warrant or not?  
 7 A. They did not.  
 8 Q. If a patrol officer calls in and asks you for an  
 9 opinion, what factors do you ask the patrolman?  
 10 A. Well, let's just take this case for an example,  
 11 because -- since we're talking about this case. If  
 12 they had called me and say, Look, should we take this  
 13 car, or, This is what I got, what do you think, I would  
 14 not be able to answer that over the phone. I would  
 15 have to make the location and see for myself, What are  
 16 you looking at? Especially if, you know, you're not  
 17 dealing with somebody running through the field, you  
 18 know? All right. Let me come to where you're at and  
 19 then we can talk about it so I can see what you're  
 20 seeing. Had they asked the question, that's what I  
 21 know I would have done.  
 22 Q. What factors would you be looking for at the scene?  
 23 A. Well, if it's the car in question, first of all, you  
 24 know. I mean, very first, Is this the car we're  
 25 looking for? If the answer is no, then we're done

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1 police, they ended up helping, I don't want to ruin  
2 anything for them. They might have -- I don't know  
3 what they need and I don't want to be the one going  
4 through and fingering everything when they would have  
5 wanted me to leave it alone. So I had to just leave it  
6 alone until we decided who was going to take this,  
7 who's going to dive into this because it needed some  
8 specialized forensic investigation. And it turns out I  
9 was right. I mean, it really was a long, long process  
10 to get this digital evidence and the laptop that was in  
11 plain view and get all that stuff taken care of, it  
12 really was, and then, you know, COVID and everything  
13 like that. So everything's been way delayed. So  
14 that's what I was doing between the time the vehicle  
15 was impounded and the time of the search warrant was  
16 seeing who was going to take the case and if I could  
17 expediate (sic) it a little bit with another  
18 specialized unit.

19 DEPOSITION EXHIBIT 3

20 WAS MARKED BY THE REPORTER

21 FOR IDENTIFICATION

22 BY MS. DOWNEY:

23 Q. This one, I take it, is marked number 3 here, was  
24 previously marked as Corporal Wojo's Deposition Exhibit  
25 Number 2.

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1 A. Okay.  
2 Q. Is this also a paper that the corporal filled out?  
3 A. Yes.  
4 Q. And you saw that one as well, correct?  
5 A. Me, right?  
6 Q. Yeah.  
7 A. No. I seen -- yes, I seen this. Yeah, it's just a PJ  
8 400, which is a report on property, and it lists Mr.  
9 Habich as the owner.  
10 MS. DOWNEY: And then this is number 4.  
11 DEPOSITION EXHIBIT 4  
12 WAS MARKED BY THE REPORTER  
13 FOR IDENTIFICATION  
14 A. How many pages is that? 3. I got 3.  
15 BY MS. DOWNEY:  
16 Q. I've got 3.  
17 A. Okay.  
18 Q. Okay. So far, so good.  
19 A. All right.  
20 Q. I'm showing you what we marked as Exhibit Number 4,  
21 which consists of 3 pages, and at the bottom there's a  
22 Bates stamp WC 000011 through 13. Can you identify for  
23 us what this is a copy of?  
24 A. This is a copy of a PJ 400 report on property.  
25 Q. And that's the one we were talking about earlier?

1 A. Which one?  
2 Q. You said that when you searched after getting a search  
3 warrant, you filled out a PJ 400?  
4 A. Yes. Let me look it over.  
5 Q. Okay. Please do.  
6 A. I believe the first page, yes. The second page is the  
7 equipment received from Priority 1 after the vehicle  
8 was -- police equipment was decommissioned from the  
9 vehicle. And number 3, I want to say, is a receipt --  
10 was a form that I actually -- of items given back to  
11 the defendant.  
12 Q. Okay. That's what I wanted to get straight, which was  
13 which and what was what. Thank you.  
14 A. Okay.  
15 Q. That's very helpful. So the first one --  
16 A. Hold on.  
17 Q. Okay.  
18 A. One second. Let me --  
19 Q. Sure.  
20 A. I think that might -- the third one, I believe, is  
21 going to be the items received from the MSP lab because  
22 it has scan disc, video, 64 gigabyte from the MSP  
23 computer lab, and then the style (sic) notebook after I  
24 got it back from them, and then there's laptop data  
25 files. Yeah, that's not what I gave back. That's in

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1 addition to the first page. Yeah, that's in addition  
2 to the first page. So the first page is the original,  
3 the second page is from the police equipment company  
4 that you and Wayne County worked out, and the third one  
5 is received back from the Michigan State Police lab  
6 that has their extraction and stuff on it along with  
7 the notebook.  
8 Q. And then the second page here that has 12 on the bottom  
9 for the page number.  
10 A. Okay.  
11 Q. There are 2 complaint numbers in the upper right box,  
12 correct?  
13 A. Yes.  
14 Q. And I think we've seen the 9032 dash 20 before --  
15 A. Yes.  
16 Q. -- on the tow tag, correct?  
17 A. Yes. Yes.  
18 Q. Can you tell me what the number above is?  
19 A. It's 8940 dash 20. That's the original number that we  
20 talked about earlier that this -- Corporal  
21 Wojciechowski's report should have supplemented and  
22 that's the original report from Corporal Spaulding.  
23 Q. Are you aware of any written policies of Wayne County  
24 as to how and when deputies can seize vehicles?  
25 A. Well, it depends on the circumstance. I know we have a



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1 traffic impound policy, but seize vehicles as a result  
2 of criminal investigations, I don't think we have a  
3 written policy on that.

4 MR. STELLA: Mind if I use the bathroom real  
5 quick?

6 MS. DOWNEY: Oh, okay. This is a good time  
7 to take a break. I should have said that before.

8 (A recess was taken from 11:04 a.m. to 11:07  
9 a.m.)

10 DEPOSITION EXHIBIT 5

11 WAS MARKED BY THE REPORTER

12 FOR IDENTIFICATION

13 BY MS. DOWNEY:

14 Q. Sergeant, I've shown you a document that's 10 pages  
15 starting with Bates number on the bottom WC 000001  
16 through 10.

17 A. Okay.

18 Q. Have you ever seen this paper before?

19 A. Yes.

20 Q. What is it as far as you're concerned?

21 A. It plainly states Abandoned and Impounded Vehicles.

22 Q. Is that the written policy you were talking about a  
23 minute ago?

24 A. This is the written policy for general traffic  
25 impounded and abandoned vehicles left on properties,

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1 crashed vehicles in the road, people who don't have a  
2 driver's license, stuff like that.

3 Q. Does it apply to vehicles seized for criminal  
4 investigation?

5 A. It does not.

6 Q. In your training, does this piece of paper have  
7 anything to do with the kind of car seizure we're  
8 talking about in this case?

9 A. I would say other than the tow tag and the -- other  
10 than the tow tag and, like, the tow truck involvement  
11 is probably it.

12 Q. Are you aware of any written policy in Wayne County  
13 that tells you whether you do or don't have to get a  
14 warrant to seize a car from somebody's driveway?

15 A. There is no written policy in the county that I was  
16 able to locate or that I've been trained on.

17 Q. When you say that you were able to locate, have you  
18 tried to locate such a written policy?

19 A. I believe the FOIA in this case directed us to search  
20 to see, and I couldn't find anything in any policy. I  
21 even looked in the old policy manual just to be sure  
22 and nothing. Even -- nothing. There's nothing. This  
23 is the only impound and it really just deals with  
24 regular patrol.

25 MS. DOWNEY: Okay. Off the record.

1 (Discussion off the record).

2 BY MS. DOWNEY:

3 Q. We were talking a little bit about this Castle -- I  
4 don't know whether to call it a theory, policy,  
5 whatever. A man's home is his castle.

6 A. Yeah. Guideline?

7 Q. Guideline. That's a good way. In your experience,  
8 does that relate only to what's inside a house or does  
9 it include the area immediately surrounding a house?

10 A. Depending on the area surrounding the house, it would  
11 include partially. It would include parts of that,  
12 yes, but less -- I would say less protection than  
13 anything inside a garage or a house.

14 MS. DOWNEY: Let's just mark this again as  
15 number 6, please.

16 DEPOSITION EXHIBIT 6

17 WAS MARKED BY THE REPORTER

18 FOR IDENTIFICATION

19 BY MS. DOWNEY:

20 Q. I'm showing you a very blurry image that --

21 A. That's not too bad.

22 Q. -- was taken from a video, so it's not as sharp as a  
23 regular photograph, but it's marked as Exhibit 6, I  
24 believe.

25 A. Yes, ma'am.

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1 Q. And hypothetically, if you rolled up on a scene and saw  
2 cars parked where they are depicted here, do you see  
3 the white car in the front?

4 A. I do.

5 Q. Would you consider that within the area where you'd  
6 have to think about a man's home is his castle?

7 A. It's hard to tell from this picture. I'd have to be  
8 out front where you could see the grainy photo of what  
9 I recognize as a patrol vehicle from the Sheriff's  
10 office. I'd have to be sitting there in order to give  
11 you a yes or no.

12 Q. What would it depend on?

13 A. What you could see from the street.

14 Q. What would you be looking for from the street?

15 A. Where was the main entrance to the house, first of all.  
16 If there was any vehicles parked in front of there,  
17 which there's not. And just what you see. What are we  
18 looking for? Are we looking for -- I mean, in this  
19 case we're looking for a car with obvious police  
20 equipment. Can you see that from the street?  
21 That's -- those are very basic definitions.

22 Q. Okay. Would the castle doctrine or guideline depend on  
23 whether the car had police equipment? I'm a little  
24 confused.

25 A. Well, if -- it's illegal in the State of Michigan to

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1 call the Martin's Towing. He could call Martin's  
 2 Towing, and Martin's Towing, they're going to find out  
 3 that information. Maybe they would say, Hey, you're  
 4 going to have to call the Sheriff's Department down at  
 5 headquarters. If you're not getting anything at the  
 6 road patrol, then you can call headquarters. They even  
 7 know. Don't bother with any -- if you have any kind of  
 8 complaint, send it to us. We'll take care of it.  
 9 Because we don't want them hassled either because, you  
 10 know, a lot of times they can't do anything about it.  
 11 They're just the custodian of the vehicle.  
 12 Q. That's right. What if nobody gets back to the owner of  
 13 the car after they call this number and leave a  
 14 message?  
 15 A. Not sure. Not sure. But I know -- and believe me, I  
 16 know people who file complaints, no matter how  
 17 ridiculous they are, get answered. It gets filtered  
 18 down to where it needs to go. Say, Hey, did this  
 19 really happen or, you know, what's going on with this,  
 20 can you answer that? So those, the complaints always  
 21 get adjudicated, I guess, for a better word.  
 22 Q. If they know where to find it, right?  
 23 A. Well, if they know where to find it.  
 24 Q. That's right.  
 25 A. I mean, we live in an Internet world.

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1 Q. I take it that you're familiar somewhat with vehicles  
 2 with the internal combustion engines, being on road  
 3 patrol, correct?  
 4 A. Yes, and I worked at a dealership prior to becoming a  
 5 Sheriff's Deputy.  
 6 Q. Then you know about cars.  
 7 A. Generally speaking, yes. You'll have to be a little  
 8 bit more specific and I'll let you know if I know or  
 9 not.  
 10 Q. That's fair enough.  
 11 A. Yeah.  
 12 Q. What happens to a car if you don't start it up for  
 13 several months?  
 14 A. Well, it depends on the vehicle. Normally, nothing.  
 15 As long as you don't have any parasitic draws on the  
 16 battery and as long as the battery is good, then  
 17 nothing. You should be able to go right out there,  
 18 turn the key, and on these fuel injected cars, wait a  
 19 second, let the fuel pump pressurize the system and  
 20 then turn the key over and have the starter engage and  
 21 the car should start.  
 22 Q. If it has a draw on the battery, what happens?  
 23 A. Oh, that battery's dead, and these batteries in cars  
 24 are not deep cycle batteries. They have to stay 80  
 25 percent or better charged in order to last. If not,

1 then they're garbage and they have to be replaced.  
 2 Q. Who was in charge of maintaining this car while it was  
 3 in custody?  
 4 A. You'd have to talk to the custodian of the vehicle  
 5 because basically they just hold it, noncharge. To my  
 6 knowledge, they're not responsible for starting the  
 7 car, driving it around the lot, making sure that the  
 8 wheel bearings' greased or anything like that. It's  
 9 just they're responsible to make sure no damage, you  
 10 know, comes to it. No tree falls on it, nobody jumps  
 11 the fence and knocks the windows out, nobody scrapes it  
 12 up, stuff like that.  
 13 Q. When you say they, who are you referring to?  
 14 A. Anybody.  
 15 Q. Let me ask you a better question.  
 16 A. Okay.  
 17 Q. When you said they make sure that there's no tree  
 18 falling on it or anything, who is that they?  
 19 A. Sorry. The Martin's Tow Yard is responsible for the  
 20 custody of the vehicle.  
 21 Q. Did you have anything to do with making sure that the  
 22 car was in the same condition as when it was seized  
 23 except for police equipment?  
 24 A. No, I didn't have anything to do with that.  
 25 Q. Okay. We were talking a little while earlier about the

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1 first page of Exhibit 4. It's the one that has WC  
 2 000011 at the bottom.  
 3 A. You're talking about the first page of --  
 4 Q. First page.  
 5 A. -- the property forms?  
 6 Q. Yes, sir. I think that's the PJ 400. Is that correct?  
 7 A. Yeah. My property forms, not Wojo's.  
 8 Q. Yes, yours.  
 9 A. All right. Go ahead.  
 10 Q. After you filled out this form, did you send a copy to  
 11 the owner of the car?  
 12 A. No.  
 13 Q. Why not?  
 14 A. Because the car was underneath investigation for  
 15 criminal activity. Had he asked, I probably would have  
 16 gave it to him, but I never had any contact with Mr.  
 17 Habich at all.  
 18 Q. Did you send a copy of the warrant to the owner of the  
 19 car?  
 20 A. No.  
 21 Q. Okay. I believe that's all the questions I have this  
 22 morning, sergeant, except for if there's a follow-up.  
 23 Thank you for your time.  
 24 A. No problem.  
 25 MR. STELLA: Do you want to take a break

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1 or -- because I've got a lot of questions.  
 2 (A recess was taken from 11:30 a.m. to 11:38  
 3 a.m.)  
 4 EXAMINATION BY MR. STELLA:  
 5 Q. Hi, sergeant. This is Davidde Stella and I have a few  
 6 follow-ups from the questions you were asked earlier.  
 7 You were asked a lot about the complaint process by  
 8 civilians. Were you ever made aware of a complaint  
 9 that Mr. Habich made against the Sheriff's Office aside  
 10 from this lawsuit?  
 11 **A. Aside from the lawsuit, no.**  
 12 Q. Were you ever informed of any phone calls that he had  
 13 made to the Sheriff's Office?  
 14 **A. No.**  
 15 Q. Were you ever informed of a written complaint ever  
 16 being filed?  
 17 **A. No.**  
 18 Q. In your practice, if people call and reach a desk  
 19 sergeant or leave a message at the 734721 (sic) number  
 20 on Exhibit 7, you know, are messages often relayed to  
 21 you?  
 22 **A. Yes, I get a lot of them written on those little pink**  
 23 **missed-you-while-you-were-gone notes.**  
 24 Q. So if Mr. Habich had called twice or 3 or 4 times,  
 25 would you expect that somebody would have given you

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1 that message?  
 2 **A. At least once, yes.**  
 3 Q. Just to be clear, I think you made this clear already,  
 4 sergeant, but you've never met -- have you met Mr.  
 5 Habich?  
 6 **A. Never.**  
 7 Q. Have you ever been to this Romulus address?  
 8 **A. No.**  
 9 Q. Are you able -- since you've never been to the address,  
 10 can you make a guess about what can be seen from where?  
 11 **A. No. I don't like making guesses. Not when it comes to**  
 12 **that, no.**  
 13 Q. Do you know -- so what is Martin's Towing? Does  
 14 Martin's Towing have a contract with Wayne County?  
 15 **A. As far as I know, yes.**  
 16 Q. How many years have you dealt with Martin's Towing?  
 17 **A. Pretty much my whole career.**  
 18 Q. And how far is Martin's Towing away from the Henry Ruff  
 19 station?  
 20 **A. Actually, they have more than one yard, but the main**  
 21 **yard is in Brownstown, which is on Allen and**  
 22 **Pennsylvania area right there. It's, like, 3 different**  
 23 **cities but it's in Brownstown side.**  
 24 Q. And the 2008 Dodge Charger that's at issue in this  
 25 case, was this ever on a Wayne County lot during this

1 entire period?  
 2 **A. Not to my knowledge.**  
 3 Q. Was the vehicle always located at Martin's Towing until  
 4 it was returned?  
 5 **A. No.**  
 6 Q. Where else was it?  
 7 **A. Priority 1 Police Equipment.**  
 8 Q. Okay. Yeah, maybe I should just clarify. So other  
 9 than Priority 1, was it always on Martin Towing's --  
 10 **A. Not to my knowledge.**  
 11 Q. Yes, to your knowledge? What --  
 12 **A. Not to my knowledge. The only place it went from its**  
 13 **parking spot basically assigned at the tow yard was to**  
 14 **Priority 1.**  
 15 Q. I have a question about the Dodge Charger. Did you  
 16 have a chance to open the hood?  
 17 **A. Yes. When I was jumping it.**  
 18 Q. Okay. Did the Dodge Charger have a stock Dodge Charger  
 19 motor or was it what people call a cop motor?  
 20 **A. I don't know. I'd have to run the vehicle**  
 21 **identification number to be sure.**  
 22 Q. Okay. Is there such thing -- I'm sorry I'm using a bad  
 23 term, a cop motor. Do you know what that means?  
 24 **A. Yes.**  
 25 Q. What does it mean?

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1 **A. I believe what you're saying is does -- if you don't**  
 2 **mind me --**  
 3 Q. Yeah.  
 4 **A. An '08 Dodge Charger came equipped with a civilian**  
 5 **package for the general public and for -- a police**  
 6 **package for police, fire, you know, special service. I**  
 7 **don't know the designation that they give it, but extra**  
 8 **suspension, brakes, the motor's more powerful. Even if**  
 9 **it's the same -- even if it's the V-6, it still shifts**  
 10 **better. You know, stuff like that. There's no**  
 11 **governor on it, so.**  
 12 Q. Do you know if this Dodge Charger had this upgraded cop  
 13 package?  
 14 **A. I can only assume that if at any time it was ordered as**  
 15 **a special service, law enforcement vehicle, then yes,**  
 16 **it would.**  
 17 Q. Sergeant, did you get a chance to look inside the  
 18 vehicle after a search warrant was obtained?  
 19 **A. Yeah, I did.**  
 20 Q. Did you have a chance to look at how the lights that  
 21 you mentioned were installed on the car? Like, the  
 22 manner they were installed?  
 23 **A. Yeah. Some of the lights were -- like, the push bumper**  
 24 **lights and the lights in the back window, you could see**  
 25 **the wires coming up or whatever, so if that's what**

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1 personally, how would you get there from this picture?

2 **A. Well, if there's no front door and I was directed what**

3 **the -- in this picture what the front door is, I'd have**

4 **to go to that door that's next to the open trunk there**

5 **in this picture.**

6 Q. So on Exhibit 2 on this tag --

7 **A. All right. You're talking about the tow tag from**

8 **Corporal Wojciechowski?**

9 Q. Is this type of document something that you would

10 normally see after it was filled out or did you see

11 this document at some point later?

12 **A. This is basically for -- this document would be for the**

13 **tow company and for recordkeeping, so it's really --**

14 **would get filed with records. It's not part of any**

15 **kind of criminal matter, unless it gets FOIA'd, of**

16 **course.**

17 Q. So the idea is that in normal course, when a vehicle is

18 impounded, does Corporal Wojo have to drop this

19 document off on your desk to look at?

20 **A. No.**

21 Q. So when you were asked about reason towed, it was

22 A-C-C, A-B-A-N, and so it's on the third column down on

23 the right, reason towed?

24 **A. Yes.**

25 Q. What does A-C-C stand for?

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1 **A. Accident.**

2 Q. And then what is A-B-A-N?

3 **A. ABAN.**

4 Q. Okay. And ARREST, is that --

5 **A. Is an arrest.**

6 Q. And what is REC?

7 **A. It's actually recovered stolen.**

8 Q. Okay. So is there any --

9 **A. And then there's --**

10 Q. Oh, go ahead.

11 **A. Yeah, go ahead.**

12 Q. So is there any check box for seizing evidence in a

13 criminal investigation?

14 **A. No.**

15 Q. Do you know why Corporal Wojo would have marked arrest

16 on this as opposed to an accident, abandoned --

17 **A. Well, just guessing --**

18 Q. -- or stolen?

19 **A. Just guessing, it would probably be out of habit.**

20 Q. Okay. But there's no box for criminal investigation?

21 **A. No. He could have wrote it in.**

22 Q. So when you executed the search warrant, the signed

23 search warrant from 35th District Court, was this at

24 Martin's Towing?

25 **A. It was.**

1 Q. And does the Sheriff let Martin's Towing ever access

2 these cars? Can they get inside of them?

3 **A. Not while they're in the secured storage, no.**

4 Q. And then let's look at Exhibit 5 real quick.

5 **A. Exhibit 5 is?**

6 Q. Is the impound.

7 **A. Impound, yeah. All right.**

8 Q. Okay. You were asked a couple questions about whether

9 this applied to a general criminal investigation. Do

10 you remember that?

11 **A. Yes.**

12 Q. Did you have a chance to actually read through all this

13 before?

14 **A. Before I got here?**

15 Q. Yeah.

16 **A. No.**

17 Q. But it's your impression, without studying it, that

18 this is not applicable?

19 **A. Well, it's just my impression of this policy always has**

20 **been that it is a general patrol policy based on**

21 **traffic stops and abandoned vehicles from, yeah, on the**

22 **roadway and stuff like that.**

23 Q. Okay. And you said that maybe some of the towing

24 procedures and all that stuff would be used in a

25 regular criminal investigation?

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1 **A. It all depends on the circumstances. It really does.**

2 Q. Sergeant, are you in charge of the training of the

3 deputies below you? The formal training?

4 **A. I'm not.**

5 Q. Do you know who is in charge of training?

6 **A. There's a lieutenant assigned to the training unit. I**

7 **do not know -- I want to say it's O'Rourke. Can't just**

8 **be a simple name, I know.**

9 Q. So my question would be do you decide what formal

10 training are provided for deputies who report to you?

11 **A. I do not, but generally speaking, if I do get e-mail**

12 **notification from an outside agency that training is**

13 **available that's applicable, I'll have them apply to**

14 **take the training. But they have to apply to the**

15 **training unit, which has to approve, and that's -- in**

16 **the last couple years, that's been nothing, so.**

17 Q. When you had a chance to execute the search warrant,

18 did you attempt to see if all the -- if the lights

19 installed in the vehicle worked?

20 **A. Yes.**

21 Q. Okay. And did they work?

22 **A. Yes.**

23 Q. So you saw them in operation and what they would look

24 like is what I'm asking.

25 **A. I did.**